

ORIGINAL

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10/8/02

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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

GEORGE S. WORKINGER,

Plaintiff,

V.

JOHN E. POTTER,
Postmaster General

Defendant.

No. 1:CV-01-130

Judge Kane

FILED
HARRISBURG, PA

OCT 07 2002

MARY E. D'ANDREA, CLERK
Per Deputy Clerk

PLAINTIFF'S RESPONSE BRIEF TO DEFENDANT'S
BRIEF IN SUPPORT OF MOTION TO DISMISS

I. DEFENDANT'S MISCONSTRUCTION OF REASONS FOR TERMINATION

Defendant continues to state that I allege termination was based on age and for bumping a parked car. No where in the record do I allege age was a factor in termination. Age or ADEA violations were only determined after the initial Grievance Filing of February 12, 1999 (copy attached) was served based on **untimely and unheard** personnel actions by Defendant's representatives.

Union representation would not be required since all employees are entitled to the evidenciary hearing upon termination. This includes probationary as well as tenured employees. The untimeliness exceeded normal expectations under similar circumstances.

II. ARGUMENT

Defendant again misconstrues findings of fact already a part of the record. Please see attached Grievance Filing dated February 12, 1999. Therefore, Defendant's Argument that I failed to file a grievance is patently false and misleading to the Court.

1. As stated above previously, union membership nor representation is required since all employees are entitled to equal rights under rules of evidence. Defendant has not shown an evidenciary hearing was held or even scheduled as required.

Defendant has not answered the ADEA or age discrimination issue. The Court has deemed that none of the three claims are extraordinarily complex so as to warrant Counsel on behalf of this Plaintiff. Therefore, it is apparently clear that Defendant's theories of defense are unsubstantial and irrelevant in whole or in part.

CONCLUSION

As stated previously, Defendant has failed to address the direct claims alleged and instead pursues peripheral avenues for defense theories. These can only be challenged by trained legal professionals of comparable resourcefulness which the Court has deemed unnecessary.

Therefore, Plaintiff prays that the Court rules and grants relief as described in the initial Complaint.



Respectfully yours,

George S. Workinger
1170 Valley Green Road
Etters, PA 17319
717-938-6472

Certificate of Service

The undersigned certifies that this 3rd day of October, 2002, he served a copy of the attached

PLAINTIFF'S RESPONSE BRIEF TO DEFENDANT'S
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by placing said copy in a postpaid envelope addressed to the person hereinafter named and depositing said envelope in the United States Mail at Etters, Pennsylvania.

ADDRESSEE: Joseph J. Terz
Assistant United States Attorney
228 Walnut Street, Suite 220
P.O. Box 11754
Harrisburg, PA 17108-4482



George S. Workinger
Plaintiff

February 12, 1999


(ORIGINAL)
copy

Kathy A. Landis, OIC
Etters Post Office, PA 17319

Re: Grievance Filing

Please be advised that a grievance is being filed on my behalf by the Pennsylvania Letter Carriers Union for the untimely and unheard separation from the United States Postal Service effective with the close of business on February 3, 1999.

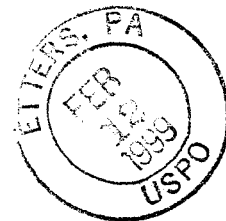
Mr. Joey Johnson plans to contact you on Monday, 2/15/99 to determine details, etc. Your signature below, or that of the window employee on this date, Friday, 2/12/99, acknowledges receipt of this notice.



George S. Workinger
194-36-0860

Rec'd. by: Jane Conley
Print name JANE CONLEY

cc: File; Joey Johnson 610-718-0354
PA Rural Letter Carriers Assn.



February 12, 1999


(ORIGINAL)
COPY

Kathy A. Landis, OIC
Etters Post Office, PA 17319

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